Norfolk District
US Army
Corps of Engineers

January 25, 2006

CENAO-TS-REG
03-N0183

JOINT FEDERAL/STATE PUBLIC NOTICE

The District Engineer and the Virginia Department of Environmental Quality have received a prospectus to establish a compensatory stream mitigation bank for Federal and State permits as described below:

BANK SPONSOR
Marsh Resources, Inc.
Attn: Dan Merz
2800 Post Office Boulevard, Level 10
Houston, Texas 77056

WATERWAY AND LOCATION OF THE PROPOSED WORK: The approximately 25 acre Bender Farm site is located on the USGS Nokesville quad, north of Route 640, south of Route 607, east of Route 806 and borders the west bank of Cedar Run in Fauquier County, Virginia. The approximately 49 acre Howser's Branch site is located north of Route 50, west of Route 860 and just east of the Route 50/Route 15 intersection in Loudoun County, Virginia.

PROPOSED WORK AND PURPOSE: The sponsor proposes to add two additional wetland mitigation sites to the existing mitigation banking instrument (MBI) for the Potomac River Mitigation Bank. The MBI was approved in March 21, 2003 and currently consists of the Licking Run, Pandora Farm and Crooked Run sites all of which are located in Fauquier County. The project proposes adding the Bender site which is located in Fauquier County and would establish approximately 20.07 forested wetland credits and the Howser's Branch site which is located in Loudoun County and would establish approximately 17.15 forested wetland credits. Both sites would service the Potomac River watershed and will include Hydrologic Unit Codes 02070008, 02070010 and 02070011 in Northern Virginia. A prospectus is enclosed.

AUTHORITY: Permits are required pursuant to Sections 401 and 404 of the Clean Water Act (Public Law 95-217) and Title 62.1 of the Code of Virginia.

FEDERAL EVALUATION OF APPLICATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. The decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected from the proposal must be balanced against its reasonably foreseeable detriments. All of the proposal's relevant factors will be considered, including conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use classification, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral

needs, consideration of property ownership and, in general, the needs and welfare of the people. The Environmental Protection Agency's "Guidelines for Specification of Disposal Sites for Dredged or Fill Material" will also be applied pursuant to Section 404(b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the individual and cumulative impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. Anyone may request a public hearing to consider this permit application by writing to the District Engineer within 30 days of the date of this notice, stating specific reasons for holding the public hearing. The District Engineer will then decide if a hearing should be held.

Preliminary review indicates that: (l) no environmental impact statement will be required; (2) no species of fish, wildlife, or plant (or their critical habitat) listed as endangered or threatened under the Endangered Species Act of 1973 (PL 93-205) will be affected; and (3) no historic properties would be affected by the project. Additional information might change any of these findings. For compliance with the Coastal Zone Management Act of 1972, as amended, the applicant must certify that federally licensed or permitted activities affecting Virginia's coastal zone (Tidewater) will be conducted in a manner consistent with the Virginia Coastal Resources Management Program (VCP). For more information or to obtain a list of the enforceable programs of the VCP, contact the Department of Environmental Quality, Office of Environmental Impact Review at (804) 698-4330 or e-mail: elirons@deq.virginia.gov.

COMMENT PERIOD: Comments should be made in writing to Ms. Anna Oliver at U.S. Army Corps of Engineers – Norfolk District, The Warrenton Field Office, PO Box 911, Warrenton VA 20188, and should arrive by the close of business on February 27, 2006.

If you have any questions about this project you may contact:

Ms. Anna Oliver at 540-428-2864

FOR THE DISTRICT ENGINEER:

Bruce F. Williams
Chief, Northern Virginia
Regulatory Section

PROSPECTUS

Howser's Branch Wetland Mitigation Site
HUC 0207008

and

Bender Wetland Mitigation Site
HUC 0207010

INTRODUCTION

Marsh Resources, Inc. (Marsh) currently maintains a Mitigation Banking Instrument that serves a portion of the Potomac River watershed (HUC 020700-08, -10, and -11) in Northern Virginia. The Mitigation Banking Instrument (MBI) was approved on March 21, 2003 as an umbrella agreement that would allow individual sites within the service area to be added upon acceptance by the Mitigation Banking Review Team (MBRT). Three sites are currently included in Marsh Resources Potomac River Banking Instrument: Licking Run, Pandora Farm, and Crooked Run (all in Fauquier County).

Marsh proposes to include two additional wetland mitigation sites within the umbrella banking instrument. Marsh will be responsible for the overall operation and management of both sites in accordance with the terms of the approved banking instrument.

GOALS AND OBJECTIVES

The goal for both projects is to re-establish seasonally saturated, forested wetlands in that would provide wetland functions and values associated with wildlife habitat, nutrient removal and transformation, sediment retention, and flood-flow attenuation. These projects will provide an opportunity to re-establish forested floodplain wetlands that have been widely impacted by agriculture in the Piedmont region.

Marsh proposes to establish 20.07 forested wetland credits at the Howser's Branch site, and 17.15 forested wetland credits at the Bender site.

OWNERSHIP OF BANK LANDS

Marsh has purchased perpetual conservation easements from both landowners. Upon final acceptance by the MBRT, Marsh will deed the easement to an approved land holding entity in accordance with the existing banking instrument. This entity may be a nonprofit organization (i.e., The Virginia Outdoors Foundation) or the state. An endowment for perpetual management of the site will be provided to the land holding entity.

DESCRIPTION OF EXISTING AND PROPOSED CONDITIONS

1. HOWSER'S BRANCH SITE

The Howser's Branch site includes 48.65 acres in Loudoun County on both sides of Howser's Branch, a second order stream with a drainage area of 1500 acres in HUC 0207008. The site is approximately one-half mile east of the intersection of Rt. 15 and Rt. 50. (Exhibit 1). The Howser's Branch site and surrounding property is currently maintained by the Mt. Zion Church Preservation Society,

The majority of this project, which includes wetland establishment and rehabilitation, will re-establish active floodplain wetlands by conveying agricultural runoff into a series of level spreaders. The result will be a 5-fold increase in the flow path of surface water collected from offsite drainage. Additional wetlands will be created through minor excavation (less than one foot) to establish vernal pools and reduce high spots in the floodplain. For construction details, refer to the enclosed construction plans.

In those portions of the site where it is not feasible to establish wetlands, the existing forested floodplain will preserved and enhanced by planting trees in areas that were cleared for farming. The site provides a significant opportunity to restore and preserve a substantial area along Howser's Branch that has historically been used for row crops and pasture. The combination of wetland and bottomland forest, and an undisturbed riparian corridor, will greatly improve the overall quality and integrity of the Howser's Branch floodplain ecosystem.

Existing Land Use

The Howser's Branch site is mowed for hay, and in the past it was used to pasture cows. The majority of the site is located in the floodplain of Howser's Branch. The property upslope of the project area includes hayfields, and the surrounding land use includes agriculture and rural residential. The site is bordered by woodland on the north and west, and by Route 50 on the south.

Existing Hydrology

The project area is located within the 100-year floodplain of Howser's Branch and the minor floodplain of two tributaries. The 100-year flood elevations were computed utilizing HEC-RAS. The drainage area to Howser's Branch is 1500 acres, the western tributary is 900 acres, and the eastern tributary is 200 acres. Soils in the floodplain typically have a seasonal high water table with 1.5 feet of the surface, and are underlain by a slowly permeable subsoil.

Soils

The Howser's Branch wetland mitigation site is located in the Culpeper Basin of the Northern Piedmont Plateau, and is underlain by Triassic, fine-grained red siltstone, interbedded with sandstone and shale. Landforms on the site include the floodplain of Howser's Branch and adjacent uplands on convex and concave landscapes. The majority of the site is located within the floodplain of Howser's Branch and its tributaries.

Soil Survey maps for Loudoun County (1986) identify the following mapping units on the site. The mitigation area corresponds with areas mapped as Bowmansville and Albano.

Map Unit	Name	Depth to High Water Table (ft.)	Hydr. Group	Surface K-factor	Landscape - Formation
5A	Rowland	1.0-3.0	C	0.43	Floodplain - alluvium
6A	Bowmansville	0-1.5	B/D	0.32	Floodplain - alluvium
17B	Meadowville	3.0-5.0	B	0.37	Concave uplands - colluvium
73C	Arcola-Nestoria	>6	C/D	0.37 0.28	Convex uplands – red siltstone and shales
74B	Ashburn-Reaville	0.5-3.0	C	0.43	Convex interfluves – reworked alluvium (Ashburn) over red siltstone
79A	Albano	0-1.5	D	0.37	Drainage swales – local alluvium over Triassic sediments

Proposed Wetland Credits

Marsh proposes to establish 20.07 wetland credits on the Howser's Branch site. The number of credits is based on the mitigation ratios used existing mitigation sites within the approved banking instrument.

Zone	**Habitat**	**Acres**	**Ratio**	**Credits**
A	Wetland Establishment (forested)	18.21	1:1	18.21
B	Wetland Establishment (scrub-shrub/emergent)	0.70	1:1	0.70
C	Wetland Rehabilitation	0.22	2:1	0.11
D	Wetland Preservation (forested)	3.14	10:1	0.31
E	Stream Buffer Reforestation	11.55	*	*
F	Upland Forest Preservation	14.83	20:1	0.74
	Total	48.65		20.07

* Acreage will be applied as stream buffer for future stream mitigation.

2. BENDER SITE

The Bender site includes 24.45 acres in Fauquier County on the west bank of Cedar Run, a third order stream within HUC 0207010, approximately two miles south of Catlett at the end of Laws Ford Road (Exhibit 2). The site is actively used for hay and pasture, and has been managed to quickly convey runoff directly to Cedar Run through several drainage ways that have been ditched and/or diverted for agricultural production.

The majority of this project, which includes wetland creation and restoration, will re-establish active floodplain wetlands by conveying agricultural runoff into a series of shallow, braided channels. The result will be a 10-fold increase in the flow path of surface water collected from offsite drainage. Additional wetlands will be created through minor excavation (less than one foot) to establish vernal pools and reduce high spots in the floodplain. A constricted outlet made of soil and riprap, and planted with live stakes, will be constructed to increase detention time before water returns to Cedar Run.

The mitigation bank site is part of a 300-acre parcel owned by Lewis and Martha Bender, who purchased the property in 1995. The Benders have actively used the site for agricultural production, primarily hay and pasture. The entire site is located in the floodplain of Cedar Run, and is bounded on the west by slopes that exceed 25 percent.

A narrow forested buffer currently exists between Cedar Run and the hayfield. The Bender property upslope of the project area includes a dairy operation and is predominately agricultural fields. The field is relatively flat and has elevations generally ranging from 183–185 feet.

The site is bordered by Cedar Run on the north and east. The Pandora Farm wetland mitigation bank site, also developed by Marsh Resources, is immediately upstream of the Bender property. The land use of the surrounding area is agricultural or wooded.

Existing Hydrology

The project area is located within the 100-year floodplain of Cedar Run. The 100-year flood elevations were computed utilizing HEC-RAS. The drainage area to Cedar Run is 107 square miles, and the site receives runoff from approximately 40 acres by two drainage ways and several seeps.

Soils

Soil Survey information for Fauquier County indicates that the predominant soil type on the site is Rowland silt loam, 0-2% slope (mapping unit 5A). Other minor soil types include Sowego loam, 2-7% slope (14B), Penn loam, 7-15% slope (73C), Ashburn silt loam, 2-7% slope (74B), and Albano silt loam, 0-2% slope (79A).

Rowland soils are located in the floodplain of Cedar Run and formed in fine alluvial sediments derived from Triassic upland material. Rowland soils are moderately well drained and are not classified as hydric in Fauquier County; however this mapping unit is frequently flooded for brief periods and has the potential to contain inclusions of hydric soils. This soil has a slight erosion hazard (K-factor of 0.43), and has moderate to high runoff (Hydrologic Group C).

Sowego soils are located in the southern portion of the floodplain, and formed in concave landscape positions and drainageways. Sowego soils are moderately well drained and are not classified as hydric in Fauquier County; however this mapping unit is frequently flooded for brief periods and has the potential to contain inclusions of hydric soils. Mapping Unit 14B has moderate erosion hazard (surface K-factor of 0.37, and subsurface K-factor of 0.24), and has moderate runoff (Hydrologic Group B).

Penn soils are well drained upland soils that formed in residuum from fine-grained Triassic materials. These soils are located on strongly sloping portions of the site, and are not classified as hydric. Mapping Unit 73C has high erosion hazard (surface K-factor of 0.32, and subsurface K-factor of 0.24), and has moderate to high runoff (Hydrologic Group C).

Ashburn soils are located in upland portions of the site, and formed in thin fluvial cappings over fine-grained Triassic material. These soils are moderately well drained and are not classified as hydric. Mapping Unit 74B has moderate erosion hazard (surface K-factor of 0.37, and subsurface K-factor of 0.24), and has moderate to high runoff (Hydrologic Group C).

Albano soils are mapped within a drainage swale that conveys water onto the floodplain of Cedar Run. These soils are poorly drained and are classified as hydric. The soil formed in local alluvium and residuum derived from red Triassic shale and sandstone, and has a clayey subsoil. Mapping Unit 79A has slight erosion hazard (surface K-factor of 0.37 and a subsoil K-factor of 0.32), and has high runoff (Hydrologic Group D).

Proposed Wetland Credits

Marsh proposes to establish 17.15 wetland credits on the Bender site. The number of credits is based on the mitigation ratios used for existing mitigation sites within the approved banking instrument.

Zone	Habitat	Acres	Ratio	Credits
A	Wetland Establishment (scrub-shrub/emergent)	0.47	1:1	0.47
B	Wetland Establishment (forested)	16.23	1:1	16.23
C	Forested Floodplain Preservation	4.60	15:1	0.31
D	Upland Preservation	2.72	20:1	0.14
	Total	24.02		17.15

* Not included in the total acreage is 0.427 acres of Cedar Run.

PERFORMANCE STANDARDS AND MONITORING PROTOCOL FOR DETERMINING CREDIT AVAILABILITY AND BANK SUCCESS

The existing banking instrument identifies the performance standards, monitoring protocols, and credit availability schedule for all mitigation sites within the bank. Success of each site will follow the criteria identified in the banking instrument.

FINANCIAL ASSURANCES

Marsh will establish financial assurances to provide for short-term and long-term maintenance of the mitigation site. The financial assurance will consist of the following two escrow accounts**.**

- Emergency Escrow Account
- Endowment Escrow Account

Wetlands will be established on the Howser's Branch site without using water control structures or other engineered structures that could require maintenance. Maintenance and the potential for remediation during the monitoring period would be minimal. Therefore, the escrow amounts proposed are less than other sites previously approved under the existing banking instrument.

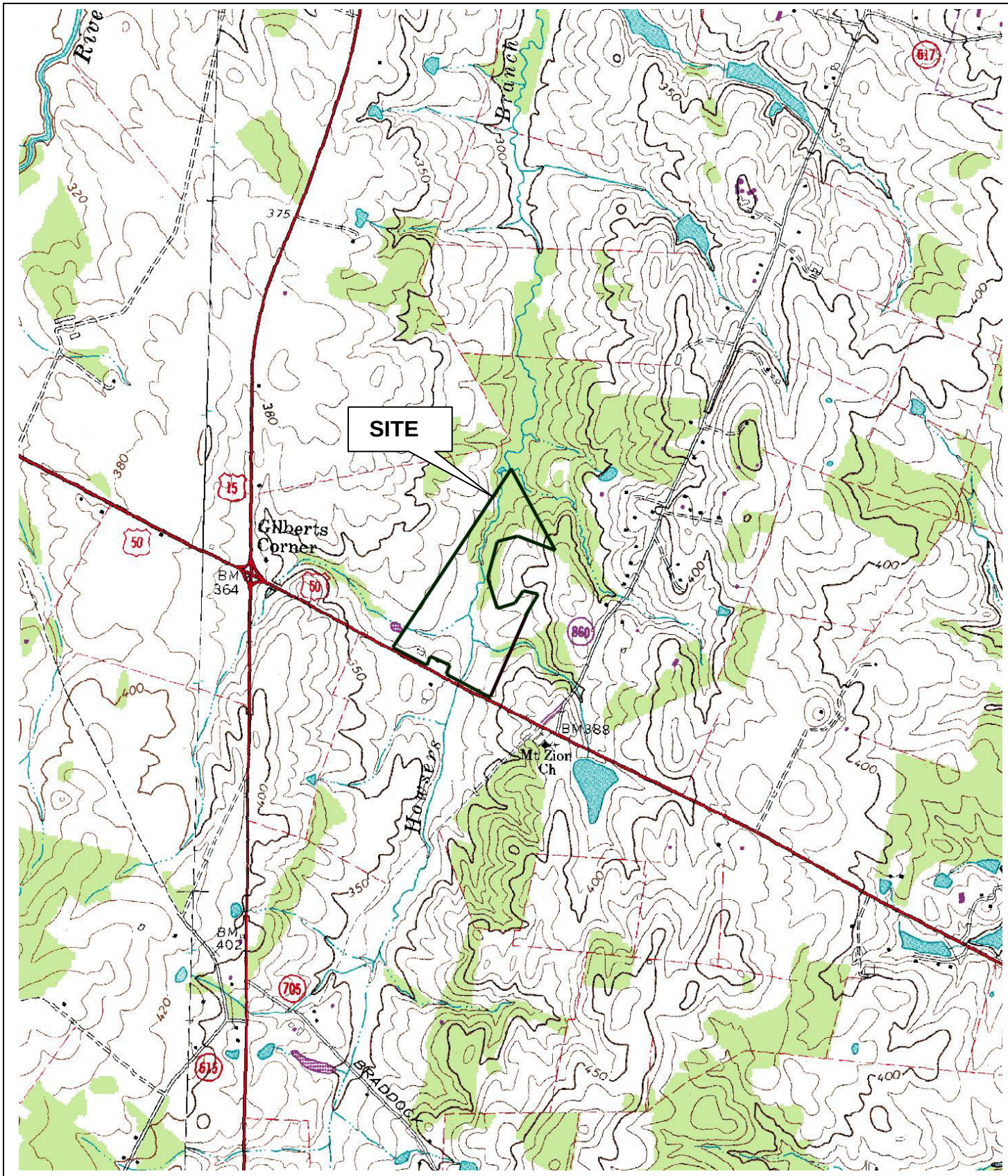
Emergency Escrow Account - Marsh will deposit $75,000 into the Emergency Escrow Account within 30 days of site plan approval. These funds will be placed in a Federally insured financial institution in an interest bearing account, and will only be accessed if the Sponsor is financially unable to maintain the site. The MBRT can take action to ensure that the appropriate remediation occurs by releasing the necessary funds for remediation to an agency represented on the MBRT.

When the conditions to close the Howser's Branch site have been met and approved by the MBRT, all remaining funds in the Emergency Escrow Account will be returned to Marsh.

If remediation is needed during the Sponsor's maintenance and monitoring period, the required work will be paid for by Marsh and will not make use of funds from the Emergency Escrow Account.

Endowment Escrow Account - Marsh will establish the Endowment Escrow Account within 30 days of site plan approval with a deposit of $25,000.00. These funds will be placed in a Federally insured financial institution in an interest bearing account. At the end of the monitoring period, the $25,000.00 plus interest will be turned over to a nonprofit steward to provide for the long-term management of the site in accordance with Section V.(F) of the banking instrument (Long-Term Ownership and Preservation).

Upon closure of the site, the MBRT will approve the terms and conditions of the easement transfer pertaining to specific maintenance requirements necessary to ensure the integrity of the site. Such maintenance requirements would include annual site inspections to verify the condition of the site. Specifically, the steward would inspect the site, and if necessary make repairs to detain water on the site.



Source: USGS Nokesville Quad (1997)

MARSH RESOURCES INC.

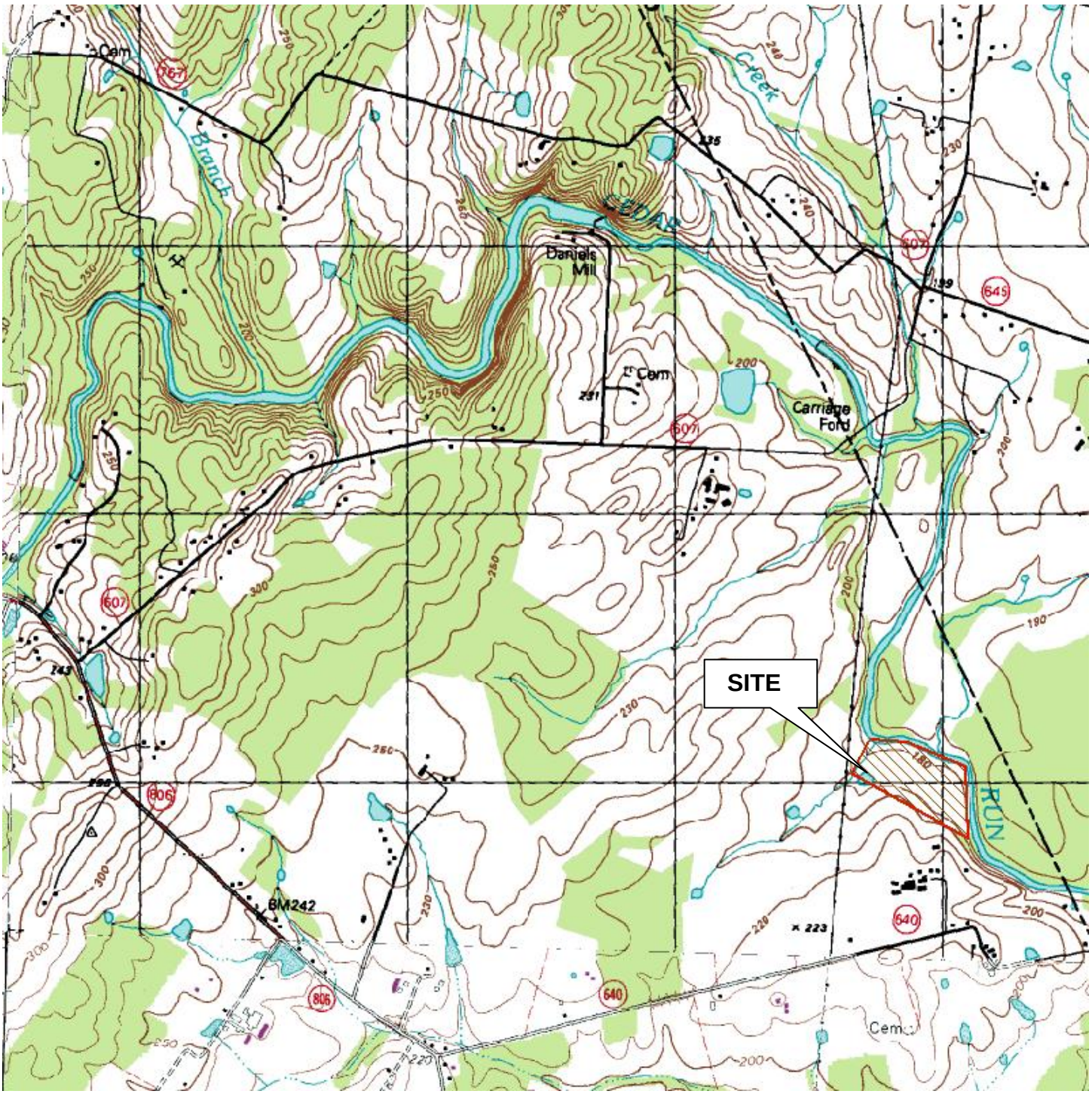
Howsers Branch Mitigation Site

SITE VICINITY

Loudoun County, Virginia

Exhibit 1

1 in = 2000 ft



Source: USGS Nokesville Quad (1997)

MARSH RESOURCES INC.

Bender Farm Mitigation Site

SITE VICINITY

Fauquier County, Virginia

Exhibit 2

1 in = 2000 ft